

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SALVADOR LEYVA,

Plaintiff,

CIVIL CASE NO. 04-40171

v.

COACHMEN R.V. COMPANY, et al.,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Defendants.

ORDER FOR STAY

Before the Court is Defendants' motion for a stay pursuant to Federal Rule of Civil Procedure 62. Rule 62 provides, in relevant part:

In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

Fed. R. Civ. P. 62(b).

Defendants filed a motion for partial judgment pursuant to Fed. R. Civ. P. 50 on October 6, 2005 and a motion for a new trial or remittitur or to alter or amend judgment pursuant to Fed. R. Civ. P. 59 and for correction of judgment pursuant to Fed. R. Civ. P. 60 on October 7, 2005. Defendants seek a stay pending the disposition of their post-judgment motions. In addition, Defendants request that the stay be extended thirty days from the Court's disposition of their motions to allow Defendants time to move for a stay pending appeal. After a review of Defendants' post-judgment

motions, the Court concludes that a stay is not warranted.

Furthermore, the Court notes that Defendants intend to appeal regardless of the Court's ruling on their post-judgment motions:

Defendants further request that they be allowed 30 days thereafter (to the deadline for appeal) to move for a stay and file such bond as may be required by the Court in light of the final judgment as amended in order to secure a stay pending appeal, pursuant to Fed. R. Civ. P. 60(d).

Mot., ¶ 8. Thus, it appears that Defendants' motions are merely a means of tolling the Defendants' time for appeal.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendants' motion for a stay [docket entry 73] is **DENIED**.

SO ORDERED.

Dated: October 28, 2005

s/Paul V. Gadola

HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on October 28, 2005, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Thomas D. Esordi; Mark P. Romano; John M. Sier, and
I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager
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